IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

M.A.C.A.No.886 of 2006(G)

O.P.(M.V).1473/1995 OF THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOLLAM

.....

APPELLANTS/CLAIMANTS:-

---

1. MEENAKSHI AMMA.K., KAITHAVANA THEKKATHIL NEENDAKARA, KOLLAM.

2. M.SUMANGALADEVI, D/O.MEENAKSHY AMMA.K., DO. DO. DO.

3. M.JAYAKUMARI, D/O.MEENAKSHY AMMA.K., DO. DO. DO.

4. SREEDEVI, D/O.MEENAKSHY AMMA.K., DO. DO. DO.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS/RESPONDENTS:-

---

1. NAZZEEMA BEEVI, THARAYIL VADAKKATHIL PADA SOUTH, KARUNAGAPPALLY.

2. BABURAJAN NAIR.R., VELLOR VADAKKATHIL, CHAVARA, KOLLAM.

3. THE ORIENTAL INSURANCE CO.LTD., KOLLAM.

R1 & R2 BY BY ADV. SMT.K.T.LILLY @ LILLY JAMES
R3 BY STANDING COUNSEL SRI.V.P.K.PANICKER.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 07/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:-

K.Padmanabhan Nair,J.

M.A.C.A.No.886 of 2006-G

Dated, this the 7th day of March, 2007

JUDGMENT

Heard. Admitted. Smt.K.T.Lilly appears for respondents 1 and 2 and Sri.V.P.K.Panicker for the 3rd respondent. The appeal itself is heard and disposed of as agreed to by both sides.

2. The 1st appellant is the mother and other appellants are sisters of one Sasidharan Pillai, who died in a road traffic accident. Deceased Sasidharan Pillai was travelling in a Metador lorry bearing registration No.KL-02/7455 from Neendakara to Sasthamkotta as the owner of the fish loaded in that Goods vehicle. When the lorry reached a place near Puthenthura, it met with an accident and the deceased and others who were travelling in the vehicle sustained injuries. Sasidharan Pillai, who was taken to District Hospital, was referred to Medical College Hospital, Thiruvananthapuram and while undergoing treatment there, he succumbed to the injuries. Appellants, who are mother and sisters of the deceased, filed petition claiming compensation.

It is averred that the deceased was aged 34 and was earning Rs.3,500/- per month at the time of death. They claimed an amount of Rs.4 lakhs as compensation. The 1st respondent was the owner and 2nd respondent was the driver of the lorry. 3rd respondent is the Insurer. In the meanwhile, one Gomathiamma along with her child O.P.(M.V.).No.227 of 1997 before the Motor Accidents Claims Tribunal, Kollam on account of the death of Sasidharan Pillai contending that they are the widow and child of the deceased. The Original Petition filed by the appellants was allowed, ordering a compensation of Rs.73,000/- with interest at the rate of 9% per annum from 10.08.1995 and the claim petition filed by Gomathiamma and her child was dismissed. The appellants have filed this appeal challenging the inadequacy of compensation awarded to them.

2. When the matter came up for admission, learned counsel appearing for the appellants has argued that the compensation fixed is too low. It is contended that the Tribunal found that the deceased was earning Rs.1,600/- per month and out of that amount, he was contributing Rs.800/- to the family and the rest of the amount was considered as the share of his

wife and child. The Tribunal took 5 as the multiplier. Though the widow and child has not filed any appeal, I do not find any reason to change the quantum of contribution fixed by the Tribunal. But, I am of the view that the multiplier adopted is very low and 8 can be adopted as reasonable multiplier. Other amounts awarded are to be confirmed.

In the result, this appeal is allowed in part. The compensation for loss of contribution and dependency is fixed at Rs.800x12x8=Rs.76,800/-. Along with that amount, the other amounts awarded for loss of love and affection, funeral and transportation expenses and pain and suffering will also be added. So, the total compensation will come to Rs.1,01,800/-. The same shall be apportioned in the same manner as done by the Court below. Interest for the enhanced amount is fixed at 7% per annum from 10.8.1995. The amount shall be deposited within three months from today by the 3rd respondent-Insurer.

K.Padmanabhan Nair
Judge

vku/-